

SUMMARY OF CHANGES TO S. 2012 IN MANAGER'S AMENDMENT

- **SEC. 103 – COUNCILS**

- Specifies 5-5-1 balance for Gulf Council appointments through 2012, and requires a report and recommendations.
- Simplifies language in the conflict of interest provisions to ensure disclosure of financial interests in other persons/organizations with business before the Councils, including lobbying and advocacy activity.

- **SEC. 103 – SCIENCE**

- Councils must consider information provided by Scientific and Statistical Committees (SSC) or the peer review process (instead of “SSC or other scientific advice”).
- Removes Council Coordination Committee from involvement in establishing regional peer review process between the Secretary of Commerce and the Councils.

- **SEC. 104 – MANDATORY FMP REQUIREMENTS**

- Adds language to the existing economic impact analysis to require consideration of economic impacts on each sector in setting allocations.
- Modifies language on Annual Catch Limits, including reference to multi-year plans and managing with fishing mortality rates.

- **SEC. 105 – DISCRETIONARY FISHERY MANAGEMENT PLAN REQUIREMENTS**

- Allows Councils to take into account in Fisheries Management Plans (FMPs) the different circumstances affecting fisheries from different states and ports, including distances to fishing grounds and proximity to time and area closures.
- Sets forth procedures for Councils to follow if they establish zones closed to all fishing.
- Authorizes Councils to designate deep sea coral protection zones upon the advice of a new Deep Sea Coral Research and Technology Program, also established in a new section 211 of the bill.
- Recognizes Council progress in integrating ecosystem concepts in fishery management. Authorizes Councils to include measures in FMPs to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations. The bill also amends section 406 of the MSA to require a study on the state of ecosystem science and authorizes the National Marine Fisheries Service to provide Councils technical advice and assistance in conducting regional ecosystem pilot projects building upon the study.

- **SEC. 106 – LIMITED ACCESS PRIVILEGE PROGRAMS (LAPPs)**

- Clarifies the differences between Community Sustainability Quotas and Regional Fishery Associations (RFAs).
- Conforms changes to antitrust review of RFAs.
- Makes petition for initiation of the process voluntary, not mandatory. If a Council does not act to initiate, it must initiate upon petition of over 50 percent of permittees or quota (with a special rule for multispecies fisheries in Gulf).
- Clarifies 2/3 New England referendum is only for Individual Fishery Quotas (not other forms of LAPPs).
- Changes Gulf referendum to majority (with multispecies language), and also limits it to IFQs.
- Specifies that revisions to the program will be to make changes to meet the goals of the program.
- Removes “science” and “observers” from cost recovery provisions, conforming cost recovery to those of non-LAPP programs (direct costs of management, data collection, enforcement).
- Allows for limited duration of LAPPs, at Council discretion, as well as auctions to be used for subsequent reallocations.
- Clarifies that only U.S. citizens and U.S. corporations (etc.) who *also* meet Council participation criteria for the program are eligible to hold or use LAPPs.
- Provides American Fisheries Act (AFA) savings clause to ensure changes are not read to erode existing U.S. ownership requirements for U.S. fishing vessels under the AFA.
- Provides a waiver for the processing in U.S. requirement, if it can be shown that there is a historic practice of processing outside of the U.S. and that fish will be processed in country with comparable seafood safety standards (e.g., seafood safety equivalency).
- Directs the Secretary of Commerce to work with the Small Business Administration and other federal assistance agencies to facilitate U.S. investment in processing where a lack of processing capacity is responsible for moving processing overseas.
- Clarifies that new provisions do not apply to programs under development in a Council before the date of enactment.

- **SEC. 107 – ENVIRONMENTAL REVIEW**

- Fixes minor typos; uses term “procedures” uniformly to avoid confusion (vs. “process”).

- **SEC. 113 – TRANSITION TO SUSTAINABLE FISHERIES**

- Makes minor technical refinements.

- **SEC. 114 – REGIONAL COASTAL DISASTERS**

- Makes minor technical refinements.

- **SEC. 115 – BYCATCH REDUCTION**

- Allows bycatch reduction programs to also develop techniques for reducing seabird bycatch.

- **SEC. 118 – ENFORCEMENT**

- Adds increased administrative civil penalties from Administration bill.
- Adds provisions of Administration bill that: (1) increase criminal penalties; (2) make knowing violations of “prohibited acts” subject to criminal enforcement; (3) extend assault prohibitions now applicable to observers and law enforcement officials to Council members and staff.
- Provides the same authorities provided to the National Marine Fisheries Service under the Lacey Act through the Magnuson-Stevens Act for enforcement against fish imports that were taken in violation of foreign fisheries conservation and management law.

- **SEC. 201 – RECREATIONAL FISHERIES**

- Provision is now silent with respect to fee (in response to requests of state managers, and some Members and recreational groups).

- **SEC. 203 – COOPERATIVE RESEARCH**

- Clarifies that the cooperative research process would not apply to research conducted under a quota set-aside (e.g., as done in scallop fishery).
- Distributes funds based on regional needs as identified by the Councils, through consensus process.

- **SEC. 208 – FISHERY MANAGEMENT FUND**

- Removes inputs to fund from penalties.

- **SEC. 209 – CHANGES TO FFP AND CCF**

- Eliminates unintentional inclusion of provisions that would extend the uses of Fishery Finance Programs and the Capital Construction Fund to sustainable fisheries marketing plans.
- New Section 115 (“Fishery Disaster Assistance”), authorizes loan assistance, including extension of repayment periods and loan forgiveness, for eligible Fishery Finance Program loan holders whose fishing-related facilities were adversely affected by hurricanes Katrina and Rita.

- **SEC. 301 – OTHER FISHERY REAUTHORIZATIONS**

- Reauthorizes Pacific Salmon Treaty only to 2009 (not 2012).
- Extends multi-state management authority for Dungeness Crab management by 10 years to allow for stability in developing capacity reduction plans in the fishery.

- **SEC. 302 – REAUTHORIZATION OF OTHER FISHERIES ACTS**

- Removes the reauthorization for the "Atlantic Coastal Fisheries Cooperative Management Act."

- **SEC. 402—IUU FISHING**

- Clarifies that illegal, unreported, and unregulated (IUU) fishing includes fishing in areas not covered by international conservation and management measures or not covered by an international agreement only where overfishing is having adverse impacts on a stock shared by the United States.

- **TITLE V – WESTERN AND CENTRAL PACIFIC TREATY**

- Changes to conform implementing legislation to similar legislation for other fisheries treaties.

- **OTHER PROVISIONS**

- Creates a new section 116 of the bill that authorizes \$17.5 million for FY 2006-2011 to the Secretary of Commerce to carry out a shrimp fisheries disaster assistance program in the states bordering the Gulf of Mexico.
- Creates a new section 118 of the bill to authorize the National Marine Fisheries Service Community-based habitat grant program.
- Creates a new section 212 of the bill that directs the Undersecretary of Commerce for Oceans and Atmosphere to establish an agreement with the National Academy of Sciences to conduct a study on the effect of turtle excluder devices on the shrimping industry and effects of shrimping on sea turtles.
- Creates a new section 213 of the bill that directs the Secretary of Commerce to complete two reports, within six months after enactment, detailing the effects of Hurricanes Katrina and Rita on commercial and recreational fisheries and fishery habitat in states bordering the Gulf of Mexico.